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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/023,091	02/26/93	MC GILL,	J SYT-003
		KRIESE, K	EXAMINER
B3M1/0629		ART UNIT	PAPER NUMBER
		2316	6
TESTA, HURWITZ & THIBEAULT PATENT ADMINISTRATOR EXCHANGE PLACE 53 STATE ST. BOSTON, MA 02109		DATE MAILED: 06/29/94	

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on 2/26/93 This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6.

Part II SUMMARY OF ACTION

1. Claims 1-32 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. Claims _____ have been cancelled.
3. Claims _____ are allowed.
4. Claims 1-32 are rejected.
5. Claims _____ are objected to.
6. Claims _____ are subject to restriction or election requirement.
7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. Formal drawings are required in response to this Office action.
9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).
11. The proposed drawing correction, filed _____, has been approved; disapproved (see explanation).
12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.
13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. Other

EXAMINER'S ACTION

Art Unit 2316

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
2. Claims 1-32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. In method claims 1-32, it is unclear who or what is intended to perform the steps that form the claimed method. For example, in claim 1, it is unclear who or what is intended to perform the steps of "providing", "initializing", "loading" and "reinitializing". Are these steps performed by a data processing mean, some specific means, or by a human user?
4. Claims 18 and 30 contain a punctuation error since that both contain a "period" in the middle of the claim. (Claim 18, line 14 and claim 30, line 9).
5. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102

Art Unit 2316

of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

6. Claims 2-32 are rejected under 35 U.S.C. § 103 as being unpatentable over Shinjo et al. or Thorpe in view of Ottman et al. or Bealkowski et al.

7. Both Shinjo and Thorpe teach a computer back-up system and method very similar to Applicant's claimed method. Shinjo and Thorpe disclose the claimed step of copying operating system files to a back-up media (Thorpe's backup memory location, Fig. 4 and Shinjo's backup memory, Fig. 4). However, neither Shinjo or Thorpe disclose the steps involved with reinitializing the system after back up. Shinjo discloses a reinitializing technique and it is inherent in the system of Thorpe that the system is to be reinitialized, but Thorpe is concerned with the actual backing up procedure itself. Both Ottman and Bealkowski teach the loading and initializing (booting) of an operating system in the same field of endeavor for the purpose of efficiently and rapidly initializing the processing system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to initialize the systems of Shinjo and Thorpe with the techniques disclosed in either Ottman or Bealkowski in order to provide the reinitialization of Thorpe and Shinjo with a affiant and rapid initialization as taught in Ottman and Bealkowski.

Art Unit 2316

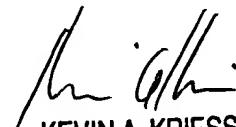
8. Note that both Ottman and Bealkowski providing configuration-specific data files on a second media (Ottman's "subset of operating system" and Bealkowski's "first BIOS portion") and initializing the system from this to provide a second operating system to be used to install the operating system (Ottman's "root partition", col. 2, lines 24-33 and Bealkowski's "first portion of BIOS", col. 3, lines 27-30).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin A. Kriess whose telephone number is (703) 305-9668.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

KK/dah
June 24, 1994


KEVIN A. KRIESS
PRIMARY EXAMINER
GROUP 2300